

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
NORTHERN DIVISION
No. 2:20-CV-00014-D

Angela Felton & Arthur Felton,

Plaintiffs,

v.

Albemarle Regional Health Services, et al.,

Defendants.

Order

Plaintiffs Angela and Arthur Felton ask the court to compel the defendants to participate in a Rule 26 discovery conference. D.E. 40. This motion is premature.

After the court dismissed the Feltons' original complaint without prejudice, D.E. 35, they informed the court that they wished to file an amended complaint, D.E. 36. As more than 21 days have passed from both the service of the original complaint and the defendants' filing their motions to dismiss, the Feltons may only amend their complaint with leave of court. Fed. R. Civ. P. 15(a).

The court has not yet ruled on their motion. If the court allows the amendment, the defendants can respond, either by answering the complaint or moving to dismiss it. *Id.* Whether it is appropriate for the court to require a Rule 26(f) conference will depend on the court's ruling on the motion to amend and the defendants' response to the amended complaint.

Thus, the court, in its discretion, denies the motion to compel a Rule 26(f) conference. D.E. 40. If the court allows the motion to amend, it will set a deadline for the court to the parties to hold a Rule 26(f) conference after the later of the filing of the defendants' answer or the resolution of any motion to dismiss.

Dated: July 7, 2020



Robert T. Numbers, II
United States Magistrate Judge